



Claims 5-6 were rejected under the judicially created doctrine of obviousness-type double patenting over U.S. patent 5,663,209. Submitted herewith is a terminal disclaimer.

Claims 5-7 were rejected under 35 USC § 112, second paragraph, as being indefinite due to the improper recitation of a Markush group. Claim 5 has been amended to overcome the rejection.

Claims 5-7 were rejected under 35 USC § 102(e) as being anticipated by Sinnott et al. (U.S. Pat. No. 5,837,252). It is the Examiner's position that the complex formulation of Sinnott, comprising *Larrea tridentata* extracts, includes Mal 4, and further that the recitation "pharmaceutically acceptable derivatives thereof" might include the components of Sinnott's composition. The Examiner's attention is respectfully directed to the Declaration under Rule 131 filed herewith. The Declaration establishes that the presently claimed invention was made prior to the filing date of the '252 patent. Accordingly, withdrawal of the § 102(e) rejection is respectfully requested.

In view of the above, it is believed that the application is in condition for allowance, and Notice to that effect is respectfully requested.

Respectfully submitted,

PILLSBURY MADISON & SUTRO LLP

By Ann S. Hobbs  
Ann S. Hobbs, Ph.D.  
Registration No. 36,830  
Tel. No.: (202) 861-3063  
Fax No.: (202) 822-0944

1100 New York Avenue, N.W.  
Ninth Floor  
Washington, D.C. 20005  
(202) 861-3000